



## **GULF COAST ECOSYSTEM RESTORATION COUNCIL**

**[Docket No. 110142014-1111-01]**

### **Council Pre-Award Notification Requirements for Grants Agreements**

**AGENCY:** Gulf Coast Ecosystem Restoration Council (Council).

**ACTION:** Notice.

**SUMMARY:** This notice constitutes a compilation of the Council's pre-award requirements for grants and cooperative agreements, including all amendments and revisions to date.

**DATES:** These provisions are effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Mary Pleffner, Council, telephone number: 813-995-2025.

**SUPPLEMENTARY INFORMATION:** The Council is authorized to award grants and cooperative agreements under the 33 U.S.C. 1321(t)(2) and (3).

It is the policy of the Council to seek full and open competition for awards of discretionary financial assistance funds whenever possible. Moreover, Council financial assistance awards are made through a competitive review and selection process, unless otherwise directed by statute. Notices announcing the availability of Federal funds for new awards for each Council competitive financial assistance program will be posted on [www.grants.gov](http://www.grants.gov). Announcements will reference or include the Council Pre-Award Notification Requirements identified in Sections A. and B. of this notice, and the program-specific information identified in Section C. of this notice.

This announcement provides notice of the Council Pre-Award Notification Requirements



that apply to all Council-sponsored grant programs, and that may supplement those program announcements that reference this notice. Some of the general provisions published herein contain, by reference or substance, a summary of the pertinent Federal statutes or regulations, Executive Orders (E.O.), Office of Management and Budget (OMB) Circulars, or OMB Assurances (e.g. Standard Forms SF-424B and SF-424D). This notice is not intended to be a derogation of, or amend, any statute, regulation, Executive Order, OMB Circular, or OMB Assurance.

Each individual award notice will complete and include the relevant analyses pursuant to the requirements in Executive Order 12866, Executive Order 13132, the Administrative Procedure Act, the Regulatory Flexibility Act, and the Paperwork Reduction Act, as applicable.

A. The following pre-award notice provisions apply to all applicants for and recipients of Council grants:

1. Federal Policies and Procedures. Applicants, non-Federal entities (also referred to as “recipients”) and subrecipients are subject to all Federal laws and Council policies, regulations, and procedures applicable to recipients of Federal financial assistance.



2. Debarment, Suspension, Drug-Free Workplace, and Lobbying Provisions. The non-Federal entity must comply with the provisions of Subpart C of 2 CFR part 1326, “Nonprocurement Debarment and Suspension” (published in the Federal Register on December 21, 2006, 71 FR 76573), and the provisions of 31 U.S.C. 1352, 2 CFR 200.450, as well as the common rule, “New Restrictions on Lobbying” published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget, “Governmentwide Guidance for New Restrictions on Lobbying,” and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996).

3. Pre-Award Screening of Applicant’s and Recipient’s Management Capabilities, Financial Condition, and Present Responsibility. It is the policy of the Council to make awards to applicants and recipients that are competently managed, responsible, financially capable and committed to achieving the objectives of the award(s) they receive. Therefore, pre-award screening may include, but is not limited to, the following reviews:

(a) Past Performance. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(b) Credit Checks. A credit check will be performed on individuals, for-profit, and non-profit organizations.

(c) Delinquent Federal Debts. No award of Federal funds shall be made to an applicant that has an outstanding delinquent Federal debt until:

(1) The delinquent account is paid in full;

(2) A negotiated repayment schedule is established and at least one payment is received;



or

(3) Other arrangements satisfactory to the Council are made.

Pursuant to 31 U.S.C. 3720B and 31 CFR 901.6, unless waived, the Council is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

Pursuant to 28 U.S.C. 3201(e), a debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The Council may promulgate regulations to allow for waiver of this restriction on eligibility for such grants.

(d) List of Parties Excluded from Procurement and Nonprocurement Programs. The System for Award Management (SAM) (previously this information was located within the Excluded Parties Listing System), maintained by the General Services Administration (GSA), is available at <https://www.sam.gov>. SAM encompasses the capabilities of the Central Contractor Registration (CCR)/Federal Agency Registration (FedReg), Online Representations and Certifications Application (ORCA), and the Excluded Parties List System (EPLS), among other federal databases, and will be checked by Council to ensure that an applicant is properly registered and eligible to receive a Council financial assistance award.

(e) Pre-Award Accounting System Surveys. The Council Grants Office may require a pre-award survey of the applicant's financial management system in cases where the



recommended applicant has had no prior Federal support, the operating unit has reason to question whether the financial management system meets Federal financial management standards, or the applicant is being considered for a high-risk designation.

(f) Other. Council may conduct additional pre-award screenings in accordance with new public laws or administrative directives.

4. No Obligation for Future Funding. If the Council obligates funding for an applicant's project, the Council has no obligation to provide any additional future funding in connection with that award. Any amendment of an award to increase funding or to extend the period of performance is at the total discretion of the Council.

5. Pre-Award Activities. If an applicant incurs any costs prior to receiving an award, it does so solely at its own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of Council to cover pre-award costs unless approved by the Grants Officer as part of the terms of the award, or as authorized for awards that meet the requirements outlined in any Council implementing regulations promulgated pursuant to its authority.

6. Freedom of Information Act (FOIA) Disclosure. The FOIA (5 U.S.C. 552) and any Council implementing regulations promulgated pursuant to its authority set forth the process and procedure the Council follows to make requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of applications, proposals, and other information submitted by applicants may be released in response to FOIA requests. Applicants and recipients should designate by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submissions



that it considers protected from disclosure under 5 U.S.C. 552(b)(4). In addition, Federal contractors may assist with program implementation and have access to materials applicants and recipients submit.

7. False Statements. A false statement on an application is grounds for denial or termination of an award, and/or possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

8. Application Forms. Unless a notice announcing the availability of funding states otherwise, the following forms, family of forms, and/or certifications are required, as applicable, for Council grants and cooperative agreements: OMB Standard Forms (SF) SF-424, “Application for Federal Assistance;” SF-424A, “Budget Information - Non-Construction Programs;” SF-424B, “Assurances - Non-Construction Programs;” SF-424C, “Budget Information - Construction Programs;” SF-424D, “Assurances - Construction Programs;” SF-424 Family of Forms for Research and Related Programs; SF-424 Short Organizational Family; SF-424 Individual Form Family; and SF-424 Mandatory Family. In addition, any Council certifications regarding lobbying, lobbying and lower-tier covered transactions promulgated pursuant to its authority; and SF-LLL, “Disclosure of Lobbying Activities,” will be used as appropriate.

9. Environmental Compliance. Applicants and recipients (including subrecipients) of grants and cooperative agreements subject to this notice must comply with all applicable environmental laws, regulations, and policies. Additionally, applicants and recipients may be required to assist the Council in complying with laws, regulations, and policies applicable to Council actions. Laws, regulations, and policies potentially applicable to Council actions and/or



applicants and recipients may include but are not limited to the statutes and Executive Orders listed below. The Council does not make independent determinations of compliance with laws such as the Clean Water Act. Rather, the Council may require an applicant or recipient to provide information to the Council to demonstrate that the applicant or recipient has complied with or will comply with such requirements. The failure to comply with or assist the Council in complying with applicable environmental requirements may be a basis for not selecting an application. In some cases, if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the applicant to submit additional information sufficient to enable the Council to make an assessment regarding compliance with applicable environmental laws, regulations, or policies.

(a) The National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Council approval of financial assistance awards may be subject to the environmental review requirements of the National Environmental Policy Act (NEPA). In such cases, applicants and recipients of financial assistance awards may be required to assist the Council in complying with NEPA. For example, applicants may be required to assist the Council by providing information on a proposal's potential environmental impacts, or drafting or supplementing an environmental assessment or environmental impact statement if the Council determines such documentation is required. Independent of the Council's responsibility to comply with NEPA, where appropriate, projects or programs funded by the Council may trigger Federal agency NEPA compliance duties involving a separate Federal action, such as the issuance of a Federal permit.

(b) The Endangered Species Act (16 U.S.C. 1531 *et seq.*). Council approval of financial assistance for project implementation is subject to compliance with section 7 of the Endangered



Species Act (ESA). Applicants and recipients must identify any impact or activities that may involve a Federally-listed threatened or endangered species, or their designated critical habitat. Section 7 of the ESA requires every Federal agency to ensure that any action it authorizes, funds, or carries out, in the United States or upon the high seas, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat. Federal agencies have the responsibility for ensuring that a protected species or habitat does not incur adverse effects from actions taken under Federal assistance awards, and for conducting the required consultations with the National Marine Fisheries (NMFS) and the U.S. Fish and Wildlife Service (U.S. FWS) under the Endangered Species Act, as applicable.

(c) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Essential Fish Habitat Regulations (50 CFR Subpart J and K). Applicants and recipients of financial assistance awards must identify to the Council any effects the award may have on essential fish habitat (EFH). Federal agencies which fund, permit, or carry out activities that may adversely impact EFH are required to consult with NMFS regarding the potential effects of their actions, and respond in writing to NMFS recommendations. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. In addition, NMFS is required to comment on any state agency activities that would impact EFH. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency procedures previously established under the NEPA, ESA, Clean Water Act (CWA), Fish and Wildlife Coordination Act, or other applicable statutes.

(d) Clean Water Act Section 404 (33 U.S.C. 1344 *et seq.*). CWA Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands.



Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as levees and some coastal restoration activities), and infrastructure development (such as highways and airports). CWA Section 404 requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities).

(e) The Migratory Bird Treaty Act (1 U.S.C. 703-712 *et seq.*), Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and Executive Order No. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds. A number of prohibitions and limitations apply to projects that adversely impact migratory birds and bald and golden eagles. Executive Order 13186 directs Federal agencies to enter a Memorandum of Understanding with the U.S. FWS to promote conservation of migratory bird populations when a Federal action will have a measurable negative impact on migratory birds.

(f) National Historic Preservation Act (16 U.S.C. 470 *et seq.*). Council approval of financial assistance awards may be subject to Section 106 of the National Historic Preservation Act (NHPA). In such cases, applicants and recipients of financial assistance awards may be requested to assist the Council in identifying any adverse effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Pursuant to 40 CFR 800.2(c)(4), applicants and recipients may also be requested to assist the Council in initiating consultation with State or Tribal Historic Preservation Officers, Indian tribes, Native Hawaiian Organizations or other applicable interested parties as necessary to the Council's responsibilities to identify historic properties, assess adverse effects to them, and



determine ways to avoid, minimize or mitigate adverse effects on historic properties.

(g) Executive Order 11988 (“Floodplain Management”) and Executive Order 11990 (“Protection of Wetlands”). Applicants and recipients must identify proposed actions located in a 100-year floodplain and/or wetlands to enable Council to determine whether there is an alternative to minimize any potential harm.

(h) Clean Air Act (42 U.S.C. 7401 *et seq.*), Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*) (Clean Water Act), and Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”). Applicants and recipients must comply with the provisions of the Clean Air Act (42 U.S.C. 7401 *et seq.*), Clean Water Act (33 U.S.C. 1251 *et seq.*), and Executive Order 11738. Recipients shall not use a facility that the Environmental Protection Agency (EPA) has placed on EPA’s List of Violating Facilities (this list is incorporated into the Excluded Parties List System which is part of SAM located at <https://www.sam.gov>) in performing any award that is nonexempt under subpart J of 2 CFR part 1532.

(i) The Flood Disaster Protection Act (42 U.S.C. 4002 *et seq.*). Flood insurance, when available, is required for Federally-assisted construction or acquisition in areas having special flood hazards and flood-prone areas. When required, recipients will ensure that flood insurance is secured for their project(s).

(j) The Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*). Federally funded projects must be consistent with a coastal state’s approved management program for the coastal zone.

(k) The Coastal Barriers Resources Act (16 U.S.C. 3501 *et seq.*). Only in certain



circumstances can Federal funding be provided for actions within a Coastal Barrier System. This Act generally prohibits new Federal expenditures, including Federal grants, within specific units of the Coastal Barrier Resources System (CBRS). Although the Act restricts Federal expenditures for coastal barrier development, Section 6(a)(6)(A) contains an exemption for projects relating to the study, management, protection, or enhancement of fish and wildlife resources and habitats, including recreational projects. Section 6(a)(6)(G) also exempts nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems. However, care must be taken when interpreting any exemptions described, as they are limited to projects that are consistent with the purpose of this Act as interpreted by the lead agency, Department of Interior. Applicants should work with the U.S. FWS, which reviews proposals to determine whether a project falls within a protected unit and if so, whether an exception applies. Maps of the CBRS are available at [http://www.fws.gov/habitatconservation/coastal\\_barrier.html](http://www.fws.gov/habitatconservation/coastal_barrier.html).

(l) The Wild and Scenic Rivers Act (16 U.S.C. 1271 *et seq.*). This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system. Funded projects in the National Wild and Scenic Rivers system must be consistent with Wild and Scenic Rivers Act requirements.

(m) The Safe Drinking Water Act (42 U.S.C. 300 *et seq.*). The Sole Source Aquifer program under this statute precludes Federal financial assistance for any project that the EPA determines may contaminate a designated sole source aquifer through a recharge zone so as to create a significant hazard to public health.

(n) The Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*). This act



regulates the generation, transportation, treatment, and disposal of hazardous wastes, and also provides that recipients of Federal funds that are state agencies or political subdivisions of states give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

(o) The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) (42 U.S.C. 9601 *et seq.*), as amended by the Community Environmental Response Facilitation Act, provides the President with broad, discretionary response authorities to address actual and threatened releases of hazardous substances, as well as pollutants and contaminants where there is an imminent and substantial danger to public health and the environment. Section 103 of this Act contains specific reporting requirements and responsibilities and section 117 of the Act contains specific provisions designed to ensure meaningful public participation in the response process.

(p) Executive Order 12898 (“Environmental Justice in Minority Populations and Low Income Populations”). This Order identifies and addresses adverse human health or environmental effects of programs, policies and activities on low income and minority populations. Consistent with Executive Order 12898, applicants and recipients may be requested to help identify and address, as appropriate, disproportionate impacts to low income and minority populations which could result from their project.

10. Limitation of Liability. In no event will the Council be responsible for proposal preparation costs if a program fails to receive funding or is cancelled because of other agency priorities. The publication of an announcement of funding availability does not oblige the Council to award any specific project or to obligate any available funds.



B. The following general provisions will apply to all Council grant awards:

1. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The uniform administrative requirements, cost principles, and audit requirements for all Council grants and cooperative agreements are codified at 2 CFR part 200.

2. Award Payments. Advances will be limited to the minimum amounts necessary to meet immediate disbursement needs, but in no case should advances exceed the amount of cash required for a 30-day period. Any advanced funds that are not disbursed in a timely manner and any applicable interest must be returned promptly to the Council. The Council uses the Department of Treasury's Automated Standard Application for Payment (ASAP) system. In order to receive payments under ASAP, recipients will be required to enroll electronically in the ASAP system by providing their Federal awarding agency with pertinent information to begin the enrollment process, which allows them to use the on-line and Voice Response System (VRS) method of withdrawing funds from their ASAP established accounts. It is the recipient's responsibility to ensure that its contact information is correct. The funding agency must be provided a Point of Contact name, mailing address, e-mail address, telephone number, Data Universal Number System (DUNS) identifier issued by the commercial company Dun & Bradstreet (D&B), and taxpayer identification number (TIN) to commence the enrollment process. In order to be able to complete the enrollment process, the recipient will need to identify a Head of Organization, an Authorizing Official, and a Financial Officer. It is very important that the recipient's banking data be linked to the funding agency's Agency Location Code in order to ensure proper payment under an award. For additional information on this requirement, prospective applicants should contact the Council.



### 3. Federal and Non-Federal Cost Sharing.

(a) Awards that include Federal and non-Federal cost sharing will incorporate a budget consisting of shared allowable costs. If actual allowable costs are less than the total approved budget, the Federal and non-Federal cost shares shall be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. If actual allowable costs are greater than the total approved budget, the Federal share will not exceed the total Federal dollar amount authorized by the award.

(b) The non-Federal share, whether in cash or in-kind, is to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for or later commitment of cash or in-kind contributions. In any case, recipients must meet the cost share commitment over the life of the award.

(c) For grant awards made under 33 U.S.C. 1321(t)(3), a gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision to satisfy the non-Federal share of any project or program that is (I) authorized by Federal law; (II) is an eligible activity described in 33 U.S.C. 1321(t)(1)(i) and (ii). Using funds for the non-Federal share shall not affect the priority in which other Federal funds are allocated or awarded. See 33 U.S.C. 1321(t)(3)(F).

4. Budget Changes and Transfers among Cost Categories. When the terms of an award allow the recipient to transfer funds among approved direct cost categories, the transfer authority does not authorize the recipient to create new budget categories within an approved budget unless the Grants Officer has provided prior approval. In addition, the recipient will not be



authorized at any time to transfer amounts budgeted for direct costs to the indirect costs line item or vice versa, without written prior approval of the Grants Officer.

5. Three (3) Percent Cap on Administrative Costs. Of the amounts received by a Gulf Coast State, coastal political subdivision, or coastal zone parish in a grant from Treasury under the Direct Component, or in a grant from the Council under the Comprehensive Plan Component or Spill Impact Component, not more than three percent may be used for administrative costs. The three percent limit is applied to the total amount of funds received by a recipient under each grant. The three percent limit does not apply to the administrative costs of subrecipients. All subrecipient costs are subject to the cost principles in Federal law and policies on grants. See 31 CFR 34.204(a), Treasury's regulations implementing the limitation set forth in 33 U.S.C. 1321(t)(1)(ii)(IX). See also 31 CFR 34.2 Definitions - Administrative Costs.

6. Indirect Costs and Facilities and Administrative Costs.

(a) Indirect (facilities and administrative (F&A) costs will not be allowable charges against an award unless permitted under subawards and specifically included as a line item in the award's approved budget.)

(b) Excess indirect costs may not be used to offset unallowable direct costs.

(c) OMB established the cognizant agency concept, under which a single agency represents all others in dealing with grantees in common areas. The cognizant agency reviews and approves a recipient's indirect cost rate. Approved rates must be accepted by other agencies, unless specific program regulations restrict the recovery of indirect costs. If indirect costs are permitted and the recipient would like to include indirect costs in its budget, but the recipient has not previously established an indirect cost rate with a Federal agency, the negotiation and



approval of a rate will be subject to the procedures in the applicable cost principles.

(d) For those organizations for which the Council is cognizant or has oversight, the Council or its designee will either negotiate a fixed rate with carry-forward provisions or, in some instances, limit its review to evaluating the procedures described in the recipient's cost allocation plan. Indirect cost rates and cost allocation methodology reviews are subject to future audits to determine actual indirect costs. For general guidance on how to put an indirect cost plan together go to: <http://www.dol.gov/oasam/programs/boc/costdeterminationguide/main.htm>.

(2) Within 90 days of the award date, the recipient shall submit to the address listed below documentation (indirect cost proposal, cost allocation plan, etc.) necessary to perform the review. The recipient shall provide the Grants Officer with a copy of the transmittal letter.

Gulf Coast Ecosystem Restoration Council

Attn: Grants Office

500 Poydras St, Suite 1117

New Orleans, LA 70130

(3) The recipient can use the fixed rate proposed in the indirect cost plan until such time as the Council provides a response to the submitted plan. Actual indirect costs must be calculated annually and adjustments made through the carry-forward provision used in calculating next year's rate. This calculation of actual indirect costs and the carry-forward provision is subject to audit. Indirect cost rate proposals must be submitted annually.

Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each recipient's fiscal year.



(d) When the Council is not the oversight or cognizant Federal agency, the recipient shall provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement.

(e) If the recipient fails to submit the required documentation to the Council within 90 days of the award date, the recipient may be precluded from recovering any indirect costs under the award. If the Council, oversight, or cognizant Federal agency determines there is good cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.

(f) The maximum dollar amount of allocable indirect costs for which the Council will reimburse the recipient shall be the lesser of the line item amount for the Federal share of indirect costs contained in the approved budget of the award, or the Federal share of the total allocable indirect costs of the award based on the indirect cost rate approved by an oversight or cognizant Federal agency and applicable to the period in which the cost was occurred, provided the rate is approved on or before the award end date.

(g) The total allowable indirect costs are subject to the three (3) percent cap on administrative costs stated in 33 U.S.C. 1321(t)(1)(iii). Pursuant to 31 CFR 34.2, administrative costs means those indirect costs for administration incurred by the Gulf Coast States, coastal political subdivisions, and coastal zone parishes that are allocable to activities authorized under the Act. Administrative costs may include costs for general management functions, general ledger accounting, budgeting, human resource services, general procurement services, and



general legal services. Administrative costs do not include indirect costs that are identified specifically with, or readily assignable to: (1) Facilities; (2) Eligible projects, programs, or planning activities; or (3) Activities relating to grant applications, awards, audit requirements, or post-award management, including payments and collections.

7. Tax Refunds. Refunds of Federal Insurance Contributions Act (FICA) or Federal Unemployment Tax Act (FUTA) taxes received by the non-Federal entity during or after the project period must be refunded or credited to Council where the benefits were financed with Federal funds under the award. The non-Federal entity agrees to contact the Grants Officer immediately upon receipt of these refunds. The non-Federal entity further agrees to refund portions of FICA/FUTA taxes determined to belong to the Federal government, including refunds received after the project period ends.

8. Other Federal Awards with Similar Programmatic Activities. Recipients will be required to provide written notification to the Federal Program Officer and the Grants Officer in the event that, subsequent to receipt of the Council award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the Council award. The Council will not pay for costs that are funded by other sources.

9. Non-Compliance with Award Provisions. Failure to comply with any or all of the provisions of an award, or the requirements of this notice, may have a negative impact on future funding by the Council and may be considered grounds for any or all of the following enforcement actions: establishment of an account receivable, withholding payments under any Council awards to the recipient, changing the method of payment from advance to



reimbursement only, or the imposition of other special award conditions, suspension of any Council active awards, or termination of any Council active awards.

10. Prohibition against Assignment by the Non-Federal Entity. The non-Federal entity shall not transfer, pledge, mortgage, or otherwise assign the award, or any interest therein, or any claim arising thereunder, to any party or parties, banks, trust companies, or other financing or financial institutions without the express written approval of the Grants Officer.

11. Non-Discrimination Requirements. There are several Federal statutes, regulations, Executive Orders, and policies relating to non-discrimination. No person in the United States shall, on the grounds of race, color, national origin, handicap, religion, age, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. These requirements include but are not limited to:

(a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and any Council implementing regulations promulgated pursuant to its authority prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;

(b) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and any Council implementing regulations promulgated pursuant to its authority prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;

(c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and any Council implementing regulations promulgated pursuant to its authority prohibiting



discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance. The U.S. Department of Justice issued regulations implementing Title II of the Americans with Disabilities Act (ADA) (28 CFR part 35; 75 FR 56164, as amended by 76 FR 13285) and Title III of the ADA (28 CFR part 36; 75 FR 56164, as amended by 76 FR 13286). These regulations adopt enforceable accessibility standards called the “2010 ADA Standards for Accessible Design” (2010 Standards). The Council deems compliance with the 2010 Standards to be an acceptable means of complying with the Section 504 accessibility requirements for new construction and alteration projects.

(d) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*) and any Council implementing regulations promulgated pursuant to its authority prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

(e) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;

(f) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), relating to nondiscrimination in the sale, rental or financing of housing;

(g) Parts II and III of Executive Order 11246, as amended by Executive Orders 11375 and 12086 requiring Federally assisted construction contracts to include the nondiscrimination provisions of sections 202 and 203 of that Executive Order and the Department of Labor’s regulations at 41 CFR 60-1.4(b) implementing Executive Order 11246;



(h) Executive Order 13166 (August 11, 2000), “Improving Access to Services for Persons With Limited English Proficiency,” requiring Federal agencies to examine the services provided, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them; and

(i) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), recognizing the constitutionally-protected interest of religious organizations in making religiously-motivated employment decisions, religious organizations are expressly exempt from the prohibition against discrimination on the basis of religion.

12. Inspector General Act of 1978, as amended (5 U.S.C. App. 3, § 1 *et seq.*) and Single Audit Act Amendments of 1996 (as implemented by 2 CFR part 200, Subpart F, “Audit Requirements.”), non-Federal entities that are subject to the provisions of 2 CFR part 200, Subpart F and that expend \$750,000 or more in a year in Federal awards must have an audit conducted for that year in accordance with the requirements contained in 2 CFR part 200, Subpart F. When Council does not have a program-specific audit guide available for the program, the auditee and auditor must have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit and should refer to 2 CFR 200.507. The grant recipient may include a line item in the budget for the cost of the audit to be approved by the Grants Officer.

13. Policies and Procedures for Resolution of Audit-Related Debts. The Council will establish policies and procedures for handling the resolution and reconsideration of financial



assistance audits which have resulted in, or may result in, the establishment of a debt (account receivable) for financial assistance awards. The policies and procedures are consistent with the provisions of 2 CFR part 200, Subpart F, and are provided in more detail in the Council Financial Assistance Standard Terms and Conditions.

14. Debts. The non-Federal entity must promptly pay any debts determined to be owed the Federal government. Council debt collection procedures are set out in 2 CFR part 200, Subpart D. In accordance with 2 CFR 200.345, delinquent debt includes any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government (this includes a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made. In accordance with 2 CFR 200.345, failure to pay a debt by the due date, or if there is no due date, within 90 calendar days after demand, shall result in the assessment of interest, penalties and administrative costs in accordance with the provisions of 31 U.S.C. 3717 and 31 CFR parts 900 through 999. The Council will transfer any debt that is more than 180 days delinquent to the Financial Management Service for debt collection services, a process known as “cross-servicing,” pursuant 31 U.S.C. 3711(g), 31 CFR 285.12 and any Council regulations and policies promulgated pursuant to its authority, and may result in Council taking further action as specified in the standard term and condition entitled “Non-Compliance With Award Provisions.” Funds for payment of a debt cannot come from other Federally-sponsored programs. Verification that other Federal funds have not been used will be made (e.g. during on-site visits and audits). If a non-Federal entity fails to repay a debt within 90 calendar



days after the demand, the Council may reduce the debt by following the procedures set forth in 2 CFR 200.345(a).

15. Remedies for Noncompliance. If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award (including discovery of adverse information on a recipient or any key individual associated with a recipient which reflects significantly and adversely on the recipient's responsibility), the Council or pass-through entity may impose additional conditions, as described in 2 CFR 200.207. If the Council or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Council or pass-through entity may take one or more of the following actions:

- (a) Require the recipient to correct the conditions.
- (b) Consider the recipient to be "high risk" and unilaterally impose special award conditions to protect the Federal government's interest.
- (c) Suspend or terminate an active award. The recipient will be afforded due process while effecting such actions.
- (d) Require the removal of personnel from association with the management of and/or implementation of the project and require Grants Officer approval of personnel replacements.
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

#### 16. Competition and Standards of Conduct.

- (a) Pursuant to the certification in Form SF-424B, paragraph 3, non-Federal entities must



maintain written standards of conduct to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of a personal or organizational conflict of interest, or personal gain in the administration of this award and any subawards.

(b) Non-Federal entities must comply with the requirements of 2 CFR 200.318 General procurement standards, including maintaining written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(c) All subawards will be made in a manner to provide, to the maximum extent practicable, open and free competition in accordance with the requirements of 2 CFR 200.317



through 200.326, “Procurement Standards.” The non-Federal entity must be alert to organizational conflicts of interest as well as other practices among subrecipients that may restrict or eliminate competition. In order to ensure objective subrecipient performance and eliminate unfair competitive advantage, subrecipients that develop or draft work requirements, statements of work, or requests for proposals shall be excluded from competing for such subawards.

(d) For purposes of the award, a financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance or advice. It could also result from non-financial gain to the individual, such as benefit to reputation or prestige in a professional field.

17. When contracting, the non-Federal entity must take all necessary affirmative steps, as prescribed in 2 CFR 200.321(b), to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

18. Subaward and/or Contract to a Federal Agency. The non-Federal entity, subrecipient, contractor, and/or subcontractor shall not sub-grant or sub-contract any part of the approved project to any agency or employee of the Council and/or other Federal department, agency, or instrumentality without the prior written approval of the Grants Officer.

19. Foreign Travel. Non-Federal entities must comply with the provisions of the Fly



America Act (49 U.S.C. 40118) and the implementing Federal Travel Regulations (41 CFR 301-10.131 through 301-10.143). The Fly America Act requires that Federal travelers and others performing U.S. Government-financed air travel must use U.S. flag carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable, or use of U.S. flag carrier service will not accomplish the agency's mission. If a non-Federal entity anticipates using a foreign air carrier for any portion of travel under a Council financial assistance award, the recipient must receive prior approval from the Grants Officer.

20. Purchase of American-Made Equipment and Products. Non-federal entities are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under Council financial assistance awards.

21. Intangible Property Rights. Title to intangible property (as defined by 2 CFR 200.59 means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible)) acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally-authorized purpose, and must not encumber the property without approval of the Council. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 CFR 200.313(e).



(a) Inventions. The non-Federal entity is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements.”

(b) Patent Notification Procedures. Pursuant to Executive Order 12889, the Council is required to notify the owner of any valid patent covering technology whenever the Council or its financial assistance recipients, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the recipient uses or has used patented technology under this award without a license or permission from the owner, the recipient will be required to notify the Grants Officer. This notice does not necessarily mean that the government authorizes and consents to any copyright or patent infringement occurring under the financial assistance award.

(c) Data, Databases, and Software. The rights to any work produced or purchased under a Council financial assistance award are determined by policies promulgated pursuant to its authority. Such works may include data, databases or software. The recipient owns any work produced or purchased under a Council financial assistance award subject to Council’s right to obtain, reproduce, publish or otherwise use the work or authorize others to receive, reproduce, publish or otherwise use the data for Federal government purposes.

(d) Copyright. The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award.



Council reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

22. Seat Belt Use. Pursuant to Executive Order 13043, recipients shall seek to encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating recipient/company-owned, rented or personally owned vehicles.

23. Research Involving Human Subjects. All proposed research involving human subjects must be conducted in accordance with 15 CFR part 27, “Protection of Human Subject.” No research involving human subjects is permitted under any Council financial assistance award unless expressly authorized by the Grants Officer.

24. Federal Employee Expenses. Federal agencies are generally barred from accepting funds from a recipient to pay transportation, travel, or other expenses for any Federal employee. Use of award funds (Federal or non-Federal) or the recipient’s provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee, may raise appropriation augmentation issues. In addition, Council policy prohibits the acceptance of gifts, including travel payments for Federal employees, from recipients or applicants regardless of the source.

25. Minority Serving Institutions (MSIs) Initiative. Pursuant to Executive Orders 13555 (“White House Initiative on Educational Excellence for Hispanics”), 13270 (“Tribal Colleges and Universities”), and 13532 (“Promoting Excellence, Innovation, and Sustainability at Historically Black Colleges and Universities”), the Council encourages all applicants and recipients to include meaningful participation of MSIs as appropriate. Institutions eligible to be



considered MSIs are listed on the Department of Education's website.

26. Access to Records. The Council, the Inspector General of the Treasury, the Comptroller General of the United States, or any of their duly authorized representatives, and, if appropriate, the State, shall have access to any pertinent books, documents, papers and records of the parties to a grant or cooperative agreement, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. An audit of an award may be conducted at any time.

27. Research Misconduct. The Council adopts, and applies to financial assistance awards for research, the Federal Policy on Research Misconduct (Federal Policy) issued by the Executive Office of the President's Office of Science and Technology Policy on December 6, 2000 (65 FR 76260). Recipient organizations that conduct extramural research funded by Council must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Recipient organizations also have the primary responsibility to prevent, detect, and investigate allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to do so. Federal award funds expended on an activity that is determined to be invalid or unreliable because of research misconduct may result in appropriate enforcement action under the award, up to and including award termination and possible suspension or debarment. The Council requires that any allegation that contains sufficient information to proceed with an inquiry be submitted to the Grants Officer, who will also notify the Treasury



OIG of such allegation.

28. Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763). Recipients must comply with this Act relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of the Office of Personnel Management Standards for a Merit System of Personnel Administration (5 CFR part 900, subpart F).

29. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*) and the Council implementing regulations promulgated pursuant to its authority. These provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

30. Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq.*). Non-Federal entities must comply with the Lead-Based Paint Poisoning Prevention Act which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.

31. Hatch Act (5 U.S.C. 1501-1508 and 7324-7328). Non-Federal entities must comply with the Hatch Act which limits the political activities of employees or officers of State or local governments whose principal employment activities are funded in whole or in part with Federal funds.

32. Labor standards for Federally-assisted construction sub-agreements (wage guarantees). Recipients must comply, as applicable, with the provisions of the Davis-Bacon Act



(40 U.S.C. 3141-3148); the Copeland “Anti-Kickback” Act (40 U.S.C. 3145 and 18 U.S.C. 874); and the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

33. Care and Use of Live Vertebrate Animals. Non-Federal entities must comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89-544), as amended (7 U.S.C. 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects) and implementing regulations, 9 CFR parts 1, 2, and 3; the Endangered Species Act (16 U.S.C. 1531 *et seq.*); Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (taking possession, transport, purchase, sale, export or import of wildlife and plants); the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. 4701 *et seq.*) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any Council financial assistance award unless authorized by the Grants Officer.

34. Publications, Videos, and Acknowledgment of Sponsorship. Publication of the results or findings in appropriate professional journals and production of videos or other media is encouraged as an important method of recording, reporting and otherwise disseminating information and expanding public access to federally-funded projects (e.g., scientific research). The recipient may be required to submit a copy of any publication materials, including but not limited to print, recorded or Internet materials to the funding agency. When releasing information related to a funded project the recipient must include a statement that the project or



effort undertaken was or is sponsored by Council. The recipient is also responsible for assuring that every publication of material based on, developed under or otherwise produced under a Council award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer or other disclaimer approved by the Grants Officer: “This [report/video/etc.] was prepared by [non-Federal entity name] using Federal funds under award [number] from the Council. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the Council.”

35. Homeland Security Presidential Directive – 12. If the performance of a grant award requires recipient organization personnel to have routine access to Federally-controlled facilities and/or Federally-controlled information systems (for purpose of this term “routine access” is defined as more than 180 days), such personnel must undergo the personal identity verification credential process. In the case of foreign nationals, the Council will conduct a check with U.S. Citizenship and Immigration Services’ (USCIS) Verification Division, a component of the Department of Homeland Security (DHS), to ensure the individual is in a lawful immigration status and that he or she is eligible for employment within the United States. Any items or services delivered under a financial assistance award shall comply with the Council personal identity verification procedures that implement Homeland Security Presidential Directive -12, “Policy for a Common Identification Standard for Federal Employees and Contractors,” FIPS PUB 201, and OMB Memorandum M-05-24. The recipient shall ensure that its subrecipients and contractors (at all tiers) performing work under this award comply with the requirements



contained in this term. The Grants Officer may delay final payment under an award if the subrecipient or contractor fails to comply with the requirements listed in the term below. The recipient shall insert the following terms in all subawards and contracts when the subaward recipient or contractor is required to have routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system:

(a) The subrecipient or contractor shall comply with Council personal identity verification procedures identified in the subaward or contract that implement Homeland Security Presidential Directive 12 (HSPD-12), Office of Management and Budget (OMB) Guidance M-05-24, as amended, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended, for all employees under this subaward or contract who require routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system.

(b) The subrecipient or contractor shall account for all forms of Government-provided identification issued to the subrecipient or contractor employees in connection with performance under this subaward or contract. The subrecipient or contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by Council: (1) When no longer needed for subaward or contract performance; (2) upon completion of the subrecipient or contractor employee's employment; (3) upon completion of the subaward or contract.

36. The Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended, and the implementing regulations at 2 CFR part 175. The Trafficking Victims Protection Act of



2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal government, if the recipient or subrecipient engages in certain activities related to trafficking in persons. The Council incorporates the award term required by 2 CFR 175.15(b) into all financial assistance awards. See <http://www.gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part175.pdf> for the full award term.

37. The Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282; codified at 31 U.S.C. 6101 note) (FFATA).

(a) The FFATA requires information on Federal awards (Federal financial assistance and expenditures) be made available to the public via a single, searchable website. This information is available at USASpending.gov. Recipients and subrecipients must include the following required data elements in their application:

- (1) Name of entity receiving award;
- (2) Award amount;
- (3) Transaction type, funding agency, Catalog of Federal Domestic Assistance Number, and descriptive award title;
- (4) Location of entity, primary location of performance (City/State/Congressional District/Country); and
- (5) Unique identifier of entity.

(b) Reporting Subawards and Executive Compensation. Prime grant recipients awarded a new Federal grant greater than or equal to \$25,000 on or after October 1, 2010, other than those



funded by the Recovery Act, are subject to FFATA subaward reporting requirements as outlined in 2 CFR part 170. The prime recipient is required to file a FFATA subaward report by the end of the month following the month in which the prime recipient awards any sub-grant greater than or equal to \$25,000. See Pub. L. 109-282, as amended by section 6202(a) of Pub. L. 110-252 (see 31 U.S.C. 6101 note). The Council incorporates the award term required by Appendix A of 2 CFR part 170 into all financial assistance awards. See <http://www.gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part170.pdf> for the full award term and reporting requirements.

(c) System for Award Management (formerly “Central Contractor Registration (CCR)”) and Universal Identifier Requirements. Unless an exemption applies under 2 CFR 25.110, applicants for federal financial assistance awards must be registered in the System for Award Management (SAM) – which includes the former “Central Contractor Registration (CCR)” – prior to submitting an application for financial assistance, maintain an active SAM registration with current information at all times during which it has an active Federal award or an application under consideration by an agency, and provide its DUNS number in each application it submits to the agency. For this purpose, the Council incorporates the award term required by Appendix A of 2 CFR part 25 into all financial assistance awards. See <http://www.gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part25.pdf> for the full award term.

C. In limited circumstances (e.g., when required by statute), the Council will issue a Federal Register notice, in addition to a notice on [www.grants.gov](http://www.grants.gov), announcing the availability of Federal funds for each Council competitive financial assistance program. Unless statute or



regulation requires otherwise, such Federal Register notices will contain only the following program-specific information: summary description of program; deadline date for receipt of applications; addresses for submission of applications; information contacts (including electronic access); the amount of funding available; statutory authority; the applicable Catalog of Federal Domestic Assistance (CFDA) number(s); eligibility requirements; cost-sharing or matching requirements; Intergovernmental Review requirements; evaluation criteria used by the merit reviewers, as applicable; selection procedures, including funding priorities/selection factors/policy factors to be applied by the selecting official; and administrative and national policy requirements; and information about how to access the full program notice at [www.grants.gov](http://www.grants.gov).

D. When applicable, the Council follows the uniform format for an announcement of Federal Funding Opportunity notice for discretionary grants and cooperative agreements established by OMB in a guidance published in the Federal Register on June 23, 2003, and revised on October 8, 2003 (see 68 FR 37370 and 68 FR 58146, respectively). Announcements published by Council are available at [www.grants.gov](http://www.grants.gov). Applicants are strongly encouraged and in some cases required to apply through [www.grants.gov](http://www.grants.gov). It can take up to two weeks to register with [www.grants.gov](http://www.grants.gov) if problems are encountered. Registration is required only once. Applicants should consider the time needed to register with Grants.gov, and should begin the registration process well in advance of the application due date if they have never registered. Applicants should allow themselves adequate time to submit the proposal through Grants.gov, as the deadline for submission generally cannot be extended and there is significant potential for



human or computer error during the electronic submission process. After registering, it may take several days or longer from the initial log-on before a new Grants.gov system user can submit an application. Only authorized individual(s) will be able to submit the application, and the system may need time to process a submitted proposal. Applicants should save and print the proof of submission they receive from Grants.gov, which may take up to two days to receive.

### **Administrative Procedure Act and Regulatory Flexibility Act**

Because notice and comment are not required under 5 U.S.C. 553, or any other law, for this notice relating to public property, loans, grants benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice.

### **Executive Order 13132 (Federalism)**

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

### **Paperwork Reduction Act**

This notice does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection-of-information, subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. The use of the following family of forms has been approved by OMB under the following control numbers: (1) SF-424 Family: 0348-0041, 0348-0044, 4040-0003, and 4040-0004; (2) SF-424 Research and Related Family: 4040-0001; SF-424 Individual Family: 4040-0005; (3) SF-424 Mandatory



Family: 4040-0002; and (4) SF-424 Short Organizational Family: 4040-0003. The use of Form SF-LLL is approved by OMB under the control numbers 0348-0046. The RESTORE Council may develop additional forms as necessary.

### **Catalog of Federal Domestic Assistance**

This notice affects all of the grant and cooperative agreement programs funded by the Council. The Catalog of Federal Domestic Assistance can be accessed at <http://www.cfda.gov>.

Jeffrey K. Roberson,

Senior Counsel,

Department of Commerce.

**[Billing Code – 6560-58]**

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